

**Summary of Proposed Title 1 of the Local Rules  
(Formerly Chapter 1 and selected portions of  
Appendix to Chapter 1 and Appendix to Chapters 4 and 5)**

Proposed Title 1 of the court's Local Rules ("rules") entitled *General and Administrative Rules* (formerly Chapter 1 and selected portions of Appendix to Chapter 1 and Appendix to Chapters 4 and 5 of the rules) is part of the court's effort to reorganize the rules to parallel the newly renumbered and reorganized California Rules of Court and to simplify, modernize, and improve the rules. Moreover, some of the proposed rules are made to accommodate the implementation of civil direct calendaring for most civil cases effective July 1, 2007. The proposed amendments are summarized below. Immediately following the summary, you will find the full text of proposed Title 1 with deletions noted in ~~striketrough~~ and proposed additions noted in underline.

<b>Chapter 1. General and Administrative Rules</b>			
<i>Rule Number</i>	<i>Former Rule Title</i>	<i>Proposed Rule Title</i>	<i>Summary Notes</i>
1.0	Purpose of rules	None	Deleted.
1.1	Citation and effect of rules	Same	Amended to simplify and modernize.
1.2	Construction and application of rules	Same	Amended to simplify and modernize.
1.3	Effective date of these rules	Same	Amended to modernize.
1.4	Definitions of words used in these rules.	[Reserved] Forms?	Former rule renumbered to rule 1.5 and amended to <u>simplify and modernize</u> .
1.5	New, amended, repealed rules	Definitions	Former rule deleted and replaced with proposed rule 1.5.
1.6	Custody of court files	Judges' vacation day	Former rule deleted and replaced with proposed rule 1.6.
1.7	Records	Civil filing venues	Former rule deleted and replaced with proposed rule 1.7. The proposed rule is taken from sections 'A' through 'E' of Appendix to Chapter 1 and renumbered with minor amendments to <u>simplify and modernize</u> .

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<b>Chapter 1. General and Administrative Rules (continued)</b>			
<i>Rule Number</i>	<i>Former Rule Title</i>	<i>Proposed Rule Title</i>	<i>Notes</i>
1.8	Facsimile filing and electronic filing	Same	Amended to simplify and modernize.
1.9	Failure to comply with these rules	Universal filing of documents in civil, family, and probate matters	Former rule renumbered to rule 1.13.
1.10	Court holidays; hours of judicial business	Composition of jury panels	Former rule deleted and replaced with proposed rule 1.10.
1.11	Composition of jury panels	Protocol regarding inter-court communication of domestic violence restraining orders	Former rule renumbered to rule 1.10 and amended to simplify and modernize. The proposed rule is taken from section 'G' of Appendix to Chapters 4 and 5 and renumbered.
1.12	Judges' vacation day	[Reserved] Forms?	Former rule renumbered to rule 1.6 and amended to simplify and modernize.
1.13	Universal filing of documents in civil, family, and probate matters	Failure to comply with these rules	Former rule renumbered to rule 1.9 and amended to modernize.

# Superior Court of California, County of Alameda

## ~~DIVISION I: GENERAL AND ADMINISTRATIVE RULES~~

### ~~CHAPTER 1—GENERAL AND ADMINISTRATIVE RULES~~

#### Title I: General and Administrative Rules

#### Chapter 1. General and Administrative Rules

#### **RULE 1.0 PURPOSE OF RULES** [Note: Deleted]

~~The purpose of these Rules is to provide the court, the public, and the bar with ready reference to the complete Local Rules of Court of the Superior Court of California, County of Alameda. (Effective 5/19/98; Amended 7/1/99 and 1/1/07)~~

#### ~~RULE 1.1 CITATION AND EFFECT OF RULES~~

##### Rule 1.1. Citation and effect of rules

These ~~Rules~~ rules ~~shall be known and are~~ the local rules for the Superior Court of California, County of Alameda. These rules may be cited as the “~~Local~~ local Rules” and ~~shall be at all times be~~ supplementary ~~to~~ and subject to statutes, ~~and~~ the California Rules of Court, ~~and any rules adopted by the Judicial Council~~ and shall be construed and applied so they do not conflict with such rules and statutes. These rules shall supersede all rules previously adopted by the superior and municipal courts of the County of Alameda, ~~which are hereby repealed in their entirety as of the date these rules become effective~~. These rules shall have no retroactive effect or application.

~~(Effective 5/19/98; Amended 7/1/99)~~ Rule 1.1 amended effective July 1, 2007; previously amended effective July 1, 1999; adopted effective May 19, 1998.

#### ~~RULE 1.2 CONSTRUCTION AND APPLICATION OF RULES~~

##### Rule 1.2. Construction and application of rules

~~These rules shall be construed to secure the efficient administration of the business of the courts and to promote and facilitate the administration of justice by the courts.~~ These rules are to be liberally construed to ensure the just and speedy determination of the proceedings that they govern. Division, section, rule, and paragraph headings do not affect the scope, meaning, or intent of the provisions of these rules. If any part of a rule is held invalid, all valid parts that are severable from the invalid parts remain in effect. If a rule is held invalid in one or more of its applications, the rule remains in effect in all valid applications that are severable from the invalid applications.

~~(Effective 5/19/98; Amended 7/1/99)~~ Rule 1.2 amended effective July 1, 2007; previously amended effective July 1, 1999; adopted effective May 19, 1998.

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## **~~RULE 1.3 EFFECTIVE DATE OF RULES~~**

### **Rule 1.3. Effective date of these rules**

These rules shall take effect May 19, 1998.

~~(Effective 5/19/98)~~ Rule 1.3 amended effective July 1, 2007; adopted effective May 19, 1998.

## **~~RULE 1.4 DEFINITIONS OF WORDS USED IN THESE RULES~~** [Note: See proposed rule 1.5]

### **Rule 1.4. [Reserved] Forms?**

## **~~RULE 1.5 NEW, AMENDED, REPEALED RULES~~** [Note: Deleted]

~~Subject to the requirements of section 575.1 of the Code of Civil Procedure and the California Rules of Court, Rule 10.613, any rule which applies to all court locations may be amended or repealed, and new rules may be added by majority vote of the Executive Committee of the Court.~~

~~Rules which apply to a specific court location shall be included in the Appendix of these rules. (Effective 5/19/98; Amended 7/1/99 and 1/1/07)~~

### **Rule 1.5. Definitions**

The definitions set forth in ~~any rules adopted by the Judicial Council shall apply with equal force and for all purposes to these rules~~ the California Rules of Court apply to these rules, unless the context or subject matter herein requires otherwise. As used in these rules:

(1) “County” means the County of Alameda, State of California.

(2) “Court” means the Superior Court of California, County of Alameda, and shall include and apply to any judge, commissioner, or referee who is a duly appointed or elected member of this ~~Court~~ court and to any judge who ~~shall have~~ has been assigned by the Chairman of the Judicial Council to serve, and is serving, as a ~~Judge~~ judge of this ~~Court~~ court, including any retired judge who is so assigned and is serving, and any attorney designated by the ~~Presiding~~ presiding ~~Judge~~ judge as ~~a temporary judge~~ Judge Pro Tem.

(3) “Rule” ~~refers to~~ is a local rule of the Superior Court of California, County of Alameda, ~~unless otherwise indicated.~~

~~“California Rules of Court” as used herein apply to and mean any rules heretofore and hereafter adopted by the Judicial Council of the State of California for the trial courts.~~

~~“Person” shall include and apply to corporations, firms, associations, and all other entities, as well as natural persons.~~

~~“Judgment” includes and applies to any judgment, and to any order or decree from which an appeal lies.~~

~~“Paper” includes all pleading, notices and other papers and documents.~~

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(4) “Clerk” ~~shall~~ means the clerk and any deputy clerks of the Superior Court of California, County of Alameda.

~~“Answer” shall include response.~~

~~“Case management conference” refers to the assignment of cases in the manner described in Rule 4.1, et seq.~~

~~“Complaint” shall include cross-complaint and petition.~~

~~“Day” indicates a calendar day, unless otherwise specified.~~

~~“Defendant” shall include cross-defendant and respondent.~~

~~“Party,” or other designation of a party, shall include such party’s attorney of record.~~

~~“Plaintiff” shall include cross-complainant and petitioner.~~

(5) "Northern Division" means the combined geographic limits of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont; served by the René C. Davidson Alameda County Courthouse.

(6) "Southern Division" means the combined geographic limits of Hayward, San Leandro, Fremont, Newark, Union City, unincorporated areas of Ashland, Castro Valley, Cherryland, Fairview, San Lorenzo, and Washington Township; served by the Hayward Hall of Justice.

(7) "Eastern Division" means the combined geographic limits of Dublin, Livermore, Pleasanton, unincorporated areas of Sunol, East to the San Joaquin County line, West to Schafer Ranch Road, North to the Contra Costa County Line, South to Andrade Road and Southeast to the Santa Clara County line; served by the Gale/Schenone Hall of Justice.

~~(Effective 5/19/98; Amended 7/1/99)~~ Rule 1.5 amended and renumbered effective July 1, 2007; adopted as rule 1.4 effective May 19, 1998; previously amended effective July 1, 1999.

### ~~RULE 1.6 CUSTODY OF COURT FILES~~ [Note: Deleted]

~~No papers on file in the office of the clerk shall be taken from the clerk's office, except by order of a judge or in response to a Subpoena Duces Tecum. (Effective 5/19/98)~~

#### Rule 1.6. Judges’ vacation day

~~Vacations. Judges’ vacation days and use are authorized consistent with California Rules of Court, Rule 10.603 (c)(2). A judge’s vacation day is defined as follows:~~

~~“A day of vacation for a judge of the Superior Court of California, County of Alameda, court is an approved absence from the Court for one full business day. Other absences from the Court-court listed in California Rules of Court, rule 10.603(c)(2)(H) are excluded from this definition.”~~

~~(Effective 7/1/01; Amended 1/1/07)~~ Rule 1.6 amended and renumbered effective July 1, 2007; adopted as rule 1.12 effective July 1, 2001; previously amended effective January 1, 2007.

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## **RULE 1.7- RECORDS** [Note: Deleted]

~~Nothing on file in any court shall be taken out of the clerk's office unless it is going to a courtroom or chambers of a judge. (Effective 5/19/98)~~

### **Rule 1.7. Civil filing venues**

The law regulating venue between counties of the State for commencement of any civil action or proceeding in the Superior Court shall determine in which court location within the county actions or proceedings must first be filed.

~~(Appendix A to Chapter 1 effective 8/1/00; Amended effective 1/1/04)~~

#### **(a) Limited jurisdiction civil cases**

~~Actions or proceedings within the former subject matter jurisdiction of the municipal courts and arising within the geographic limits of the following court locations shall be filed as indicated:~~

- (1) Allen E. Broussard Justice Center: Emeryville, Oakland, Piedmont.
- (2) Hayward Hall of Justice: Hayward, San Leandro, unincorporated areas of Ashland, Castro Valley, Cherryland, Fairview, and San Lorenzo.
- (3) George E. McDonald Hall of Justice: Alameda.
- (4) Berkeley Courthouse: Albany and Berkeley.
- (5) Fremont Hall of Justice: Fremont, Newark, Union City, and unincorporated areas of Washington Township.
- (6) Gale/Schenone Hall of Justice: Dublin, Livermore, Pleasanton, unincorporated areas of Sunol, East to the San Joaquin County line, West to Schafer Ranch Road, North to the Contra Costa County Line, South to Andrade Road, and Southeast to the Santa Clara County line.

#### **(b) ~~General~~ Unlimited jurisdiction civil cases**

- (1) René C. Davidson Alameda County Courthouse (Northern Division): Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont.
- (2) Hayward Hall of Justice (Southern Division): Hayward, San Leandro, Fremont, Newark, Union City, unincorporated areas of Ashland, Castro Valley, Cherryland, Fairview, San Lorenzo, and Washington Township.
- (3) Gale/Schenone Hall of Justice (Eastern Division): Dublin, Livermore, Pleasanton, unincorporated areas of Sunol, East to the San Joaquin County line, West to Schafer Ranch Road, North to the Contra Costa County Line, South to Andrade Road, and Southeast to the Santa Clara County line.

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### **(c) Petitions for civil harassment and domestic violence restraining orders**

- (1) René C. Davidson Alameda County Courthouse: Emeryville, Oakland, Piedmont.
- (2) Hayward Hall of Justice: Hayward, San Leandro, unincorporated areas of Ashland, Castro Valley, Cherryland, Fairview, and San Lorenzo.
- (3) George E. McDonald Hall of Justice: Alameda.
- (4) Berkeley Courthouse: Albany and Berkeley.
- (5) Fremont Hall of Justice: Fremont, Newark, Union City, and unincorporated areas of Washington Township.
- (6) Gale/Schenone Hall of Justice: Dublin, Livermore, Pleasanton, unincorporated areas of Sunol, East to the San Joaquin County line, West to Schafer Ranch Road, North to the Contra Costa County Line, South to Andrade Road, and Southeast to the Santa Clara County line.

### **(d) Probate venues including probate conservatorships and guardianships**

- (1) René C. Davidson Alameda County Courthouse (Northern Division): Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont.
- (2) Hayward Hall of Justice (Southern Division): Hayward, San Leandro, Fremont, Newark, Union City, unincorporated areas of Ashland, Castro Valley, Cherryland, Fairview, San Lorenzo, and Washington Township.
- (3) Gale/Schenone Hall of Justice (Eastern Division): Dublin, Livermore, Pleasanton, unincorporated areas of Sunol, East to the San Joaquin County line, West to Schafer Ranch Road, North to the Contra Costa County Line, South to Andrade Road, and Southeast to the Santa Clara County line.
- (4) Fremont Hall of Justice: Fremont, Newark, Union City, and unincorporated areas of Washington Township.

*(Appendix B to Chapter 1 effective 8/1/00; Amended effective 1/1/04)*

### **(e) Adoption filing venues**

- (1) René C. Davidson Alameda County Courthouse (Northern Division): Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont.
- (2) Hayward Hall of Justice (Southern Division): Hayward, San Leandro, Fremont, Newark, Union City, unincorporated areas of Ashland, Castro Valley, Cherryland, Fairview, San Lorenzo, and Washington Township.

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- (3) Gale/Schenone Hall of Justice (Eastern Division): Dublin, Livermore, Pleasanton, unincorporated areas of Sunol, East to the San Joaquin County line, West to Schafer Ranch Road, North to the Contra Costa County Line, South to Andrade Road, and Southeast to the Santa Clara County line.

*(Amended effective 1/1/02)*

### (f) Lanterman-Petris-Short Act (LPS) filing venue

- (1) René C. Davidson Alameda County Courthouse

*(Appendix C to Chapter 1 effective 8/1/2000; Amended to Appendix D to Chapter 1 effective 1/1/02)*

### (g) False Claims Act (including Qui Tam) filing venue

Actions brought under Government Code §§sections 12650 – 12656 must be filed at the René C. Davidson Alameda County Courthouse (California Rules of Court, rule 2.571(b)).

*(Amended effective 1/1/04; Amended 1/1/07)*

Rule 1.7 amended and renumbered effective July 1, 2007; adopted as sections ‘A’ through ‘E’ of Appendix to Chapter 1 effective August 1, 2000; previously amended effective January 1, 2002, January 1, 2004, and January 1, 2007.

## **~~RULE 1.8 FACSIMILE FILING AND ELECTRONIC FILING~~**

### **Rule 1.8. Facsimile filing and electronic filing**

The ~~Superior Court of California, County of Alameda~~ court hereby adopts ~~Title 2, Chapter 3, Rules 2.300 et seq. of the~~ California Rules of Court, rule 2.300 et seq. ~~allowing~~ for the facsimile filing of documents in Civil, Probate, and Family Law proceedings, except those specified in California Rules of Court, ~~Rule~~ rule 2.300(b). ~~Documents may be submitted by facsimile filing as follows:~~

~~**1. Agency Filing:** Pursuant to California Rules of Court, Rule 2.303, a party may file all documents with the Court by using a fax filing agency.~~

#### **(a) Filing**

- (1) The facsimile filing number will be posted on the court’s website and will be available at the clerk’s office.
- (2) The court accepts direct filing as well as agency filing.
- (3) Documents may be faxed to the court 24 hours a day, although filings received after 4 p.m. or on court holidays or weekends will be deemed filed on the next court day.



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~~2. Direct Filing: Pursuant to California Rules of Court, Rules 2.304, 2.305, and 2.306, the following shall apply to direct fax filing:~~

~~A. Pursuant to California Rules of Court, Rules 2.304 et. seq., a party may file documents with the Court by facsimile (for the current fax number, please consult the court's web site: <http://www.alameda.courts.ca.gov/courts/faxfiling.shtml>).~~

~~B. Documents may be faxed to the Court 24 hours a day, although filings received after 4 p.m. or on Court holidays or weekends shall be deemed filed on the next court business day.~~

~~C. The first sheet transmitted shall be the Judicial Council Facsimile Transmission Cover page (JC form number 2009) which shall include any special handling instructions and credit card type (Visa or MasterCard), account number, and expiration date of card. All filing fees shall be charged to the filing party's credit card account. Upon debit of the account, the transmission cover sheet shall be properly disposed of and not filed in the case.~~

~~D. Pursuant to California Rules of Court, Rule 2.304, the court shall charge a fax usage fee of \$1 per page, including the cover sheet, regardless of the acceptance of filing in addition to any filing fees normally associated with the document.~~

~~E. Faxed documents must comply with all filing requirements otherwise listed in the California Rules of Court and Superior Court, County of Alameda, Local Rules of Court. The document to be filed with the Court shall include the word "BY FAX" below the title of the document.~~

### ~~F.~~(b) Attorney fax number

If an attorney represents the party, the attorney ~~shall~~must also include his or her facsimile machine telephone number, designated as a "fax" number below the attorney's state bar number.

### ~~G.~~(c) Conformed copies

Conformed copies will be available via the court's web page if permitted by the California Rules of Court. Otherwise, a conformed copy of the filing will be returned via facsimile to the number provided unless otherwise requested.

### ~~H.~~(d) Attachments

Each attachment must be immediately preceded by a faxed insert "tab title page", blank except for the title of the tab typed in the lower left-hand corner of the page. The facsimile usage fee ~~of \$1.00 per page~~ will be, ~~also~~, assessed for each tab page.

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~~I. The proper transmission of a document by facsimile machine is the responsibility of the filing party, not the Court.~~

### **J.(e) Rejected filings**

If a document is rejected for filing, the clerk will fax a 'Return Information Sheet' ~~after the document is reviewed,~~ indicating why the filing was rejected usually within two court days.

~~K. Pursuant to California Rules of Court, Rule 2.304(f), an attorney or party who has established an account with the court before filing a paper by fax may use the account to pay for documents filed by fax. For information about establishing an account, please consult the Court's website: <http://www.alameda.courts.ca.gov/courts/faxfiling.shtml>.~~

~~(Effective 5/19/98; Amended 8/1/00, 7/1/03, 1/01/04, and 1/1/07)~~ Rule 1.8 amended effective July 1, 2007; previously amended effective August 1, 2000, July 1, 2003, January 1, 2004, and January 1, 2007; adopted effective May 19, 1998.

### **RULE 1.9 FAILURE TO COMPLY WITH THESE RULES** [Note: See proposed rule 1.13]

#### **Rule 1.9. Universal filing of documents in civil, family, and probate matters**

Documents may be submitted for filing in the clerk's office at any of the following court locations:

~~1. René C. Davidson County Courthouse~~

~~5. Gale/Schenone Hall of Justice~~

~~2. Allen E. Broussard Justice Center~~

~~6. George E. McDonald Hall of Justice~~

~~3. Berkeley Courthouse~~

~~7. Hayward Hall of Justice~~

~~4. Fremont Hall of Justice~~

(1) René C. Davidson County Courthouse

(2) Allen E. Broussard Justice Center

(3) Berkeley Courthouse

(4) Fremont Hall of Justice

(5) Gale/Schenone Hall of Justice

(6) George E. McDonald Hall of Justice

(7) Hayward Hall of Justice

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~~(Effective 01/01/04)~~ Rule 1.9 amended and renumbered effective July 1, 2007; adopted as rule 1.13 effective January 1, 2004.

## **~~RULE 1.10 COURT HOLIDAYS; HOURS OF JUDICIAL BUSINESS~~** [Note: Deleted]

~~The Court observes all County and State holidays. On County holidays on which the Court is required by State law to be open for business, a judge will be assigned to be available to sign orders. At least one judge shall be available for emergency orders and writs at all times required on judicial days when the Court is not in session.~~

~~The Court will be open for judicial business from 9:00 a.m. until 5:00 on all court days.  
(Effective 5/19/98; Amended 7/1/99; Amended 1/1/00)~~

### **Rule 1.10. Composition of jury panels**

~~The Jury Commissioner shall create a county-wide master jury list of qualified jurors pursuant to the provisions of CCP Sections 197 and 198.~~

#### **(a) Subpanels established**

The master jury list ~~shall~~ will be divided into five sub-panels as follows: ~~(CCP Section 198.5)~~

- (1) Oakland locations (René C. Davidson County Courthouse, Administration Building, Allen E. Broussard Justice Center, Wiley W. Manuel Courthouse): Residents of Albany, Berkeley, Emeryville, Oakland, and Piedmont.
- (2) Hayward Hall of Justice: Residents of Hayward, San Leandro, unincorporated areas of Ashland, Castro Valley, Cherryland, Fairview, and San Lorenzo.
- (3) George E. McDonald Hall of Justice: Residents of Alameda.
- (4) Fremont Hall of Justice: Residents of Fremont, Newark, Union City, and unincorporated areas of Washington Township.
- (5) Gale/Schenone Hall of Justice: Residents of Dublin, Livermore, Pleasanton, unincorporated areas of Sunol, East to the San Joaquin County line, West to Schaefer Ranch Road, North to the Contra Costa County Line, South to Andrade Road and Southeast to the Santa Clara County line.

#### **(b) Use of panels and subpanels**

##### **(1) Panels for criminal cases**

Jurors for felony trials ~~and general jurisdiction civil trials shall~~ will be drawn from the master jury list. Jury panels for misdemeanor trials shall be drawn from the sub-panel of residents from the area in which the charged offense occurred.

##### **(2) Panels for civil cases**

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Panels for trials in unlimited jurisdiction civil cases will be drawn from the master jury list. ~~Jury p~~Panels for limited jurisdiction unlawful detainer cases ~~shall~~ will be drawn from the sub-panel of residents from the area in which the property is located or from the pool of jurors summoned to the courthouse to which the trial has been assigned. For all other limited jurisdiction civil cases, jurors ~~shall~~ will be selected from the sub-panel of jurors serving the location in which the trial is held, unless no such subpanel is available. In that case, jurors may be impaneled from the master jury list.

### (c) Use of master panel if subpanel is insufficient

If the number of jurors in a sub-panel should prove insufficient, the trial judge ~~shall~~ will have the discretion to utilize available jurors drawn from the master jury list.

*~~(Effective 7/1/99; Amended 5/1/00; Amended 1/1/01; Amended 2/5/01)~~Rule 1.10 amended and renumbered effective July 1, 2007; adopted as rule 1.11 effective July 1, 1999; previously amended effective May 1, 2000, January 1, 2001, and February 5, 2001.*

## **~~RULE 1.11 COMPOSITION OF JURY PANELS~~** [Note: See proposed rule 1.10]

### **Rule 1.11. Protocol regarding inter-court communication of domestic violence restraining orders**

#### **(a) Statement of purpose**

This protocol is adopted in compliance with California Rules of Court, rule 5.450, effective January 1, 2004 and renumbered effective ~~1/1/07~~January 1, 2007, and complies with California Family Code sections 6380 and 6383, as well as California Penal Code section 136.2 as currently amended.

#### **(b) Protocol goals**

The goals of this protocol are to:

- (1) Establish a procedure for communication among courts issuing criminal protection orders and courts issuing orders involving child custody and visitation orders, regarding the existence and terms of criminal protective orders and child custody and visitation orders, including:
  - (A) A required procedure for courts issuing child custody or visitation to make reasonable efforts to determine whether there exists any criminal court protective order that involves any party to the action; and

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- (B) A procedure to require courts issuing criminal court protective orders to make reasonable efforts to determine whether there exists any child custody or visitation orders that involve any party to the action.
- (2) Establish a procedure by which the court issuing the criminal court protective order may, after consultation with a court issuing subsequent child custody and visitation orders, modify the criminal court protective order to allow or restrict contact between the person restrained by the order and his or her children.
- (3) The above-described orders shall include the following:
  - (A) Family law court orders made pursuant to the Domestic Violence Prevention Act (F.C. section 6200 et. seq.);
  - (B) Juvenile court orders made pursuant to W. & I. section 213.5;
  - (C) Criminal court orders made pursuant to P.C. 136.2 where the victim and the defendant have a relationship as defined in F.C. section 6211;
  - (D) Civil court orders made pursuant to C.C.P. section 527.6 where the victim and the defendant have a relationship as defined in F.C. section 6211;
  - (E) Probate court orders made in guardianship cases.
- (4) Provide for the co-existence of non-conflicting orders with the following limitations:
  - (A) The criminal court protective order under P.C. section 136.2 supersedes all other orders in the event of a conflict; and
  - (B) All orders involving child visitation with the restrained person shall be specific as to time, date, and location of the visit and shall include provisions for the safe exchange of the children. Safety of all parties shall be the court's paramount concern.
- (5) Encourage the establishment of regional communication systems with courts in neighboring counties regarding the existence and terms of criminal court protective orders.

### (c) Protocol

Court communication regarding restraining orders – criminal, civil, family, juvenile, probate

- (1) Criminal protective orders take precedence over all other protective orders issued by the civil, family, juvenile and probate courts, subject to the provisions below.

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### (2) Criminal court procedure:

- (A) When the criminal court issues criminal protective orders protecting victims, the criminal Court shall determine whether there are any minor children of the relationship between the defendant/restrained person and the victim/protected person, and whether there are any court orders for custody/visitation for those minor children.
- (B) If there are minor children, the criminal court shall consider whether peaceful contact with the victim/protected person should be allowed for the purpose of allowing defendant/restrained person to visit the minor children. The court shall give the defendant/restrained person an information packet concerning his or her rights to request custody and/or visitation through the family or juvenile court, along with directions to the Self-Help Center.
- (C) The criminal court shall also determine whether there are any existing protective/restraining orders involving the defendant/restrained person, the victim/protected person, and/or the minor children. Subject to available resources, the court shall examine available databases for existing protective or restraining orders before issuing permanent criminal protective orders.
- (D) If the criminal court order includes minor children as named protected parties, the order may be made explicitly subject to modification by a civil, family, juvenile or probate judge. If this qualifying clause is not included in the criminal court order, the order may not be modified without notification and consent of the issuing criminal court.
- (E) When the criminal court issues criminal protective orders that list the defendant/restrained person's minor children as protected persons, the criminal court shall forward a copy of its order to the family court. If a civil, juvenile or probate court proceeding concerning the family is pending, a copy of the order shall be faxed to the applicable court.

### (3) Modification of criminal protective orders

- (A) Any court responsible for issuing custody or visitation orders involving minor children of a defendant/restrained person subject to a criminal protective order may modify the criminal protective order if all of the following circumstances are applicable:
  - (i) Both the defendant/restrained person and the victim/protected person are subject to the jurisdiction of the family, juvenile, or probate court; and both parties are present before the court.

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(ii) The defendant/restrained person is on probation (formal or court) or has a case pending for a domestic violence offense in Alameda County.

(iii) The family, juvenile, or probate court identifies a criminal protective order issued against the defendant, which is inconsistent with a proposed family, juvenile, or probate court order, such that the family, juvenile, or probate order is/will be more restrictive than the criminal protective order.

(iv) Both the victim/protected person and the defendant/restrained person agree that the criminal protective order may be modified to a less restrictive order.

(B) A criminal protective order may not be modified to a less restrictive order or to one permitting proposed visitation or custody unless a clause specifically allowing such a modification or amendment is included in the criminal protective order. (See section 2D, supra.)

(C) If the aforementioned clause allowing modification of a criminal protective order does not appear on the face of the order, or if any party objects to the modification of the criminal protective order, the family, juvenile, or probate court shall, at the request of an interested party or on its own motion, calendar a hearing before the criminal court on the issue of whether a criminal protective order should be modified. The family, juvenile, or probate court shall provide the criminal court with copies of existing or proposed orders relating to the matter. Notice of the hearing will be provided to all counsel and parties.

**Any modification of a Criminal Court Protective Order must be communicated to the Alameda County District Attorney's Office.**

(4) Family, juvenile, probate, civil court restraining orders involving child custody and visitation orders.

(A) All personal conduct and stay away restraining orders in a judgment must include the date of expiration of such orders and good cause for granting such order(s) shall be set forth in attached declaration(s). In addition, all such restraining orders must be separately set forth on a CLETS or other applicable Judicial Council form.

(B) Subject to available resources, the family, juvenile, and probate courts shall examine appropriate available databases for existing restraining or protective orders involving the same restrained and protected parties before issuing permanent CLETS civil restraining orders. In the event that

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this information is not available to the judicial officer, inquiry shall be made of the parties before issuing permanent CLETS civil restraining orders.

- (C) Any order of the family, juvenile, or probate court that permits contact between a defendant/restrained person subject to either CLETS civil restraining orders or criminal protective orders and his or her minor children, shall contain specific language setting forth the time, day, place, and manner of the transfer of the minor children, including the safe exchange of the minor children, in accordance with Family Code Section 3100. Such an order shall not contain language that conflicts with a criminal protective order. Safety of all parties shall be the court's paramount concern. The court or a court-related agency may recommend safe and specific contact with the minor children and direct the defendant/restrained person and/or the victim/protected person to the process for modification of protective orders.

*(Effective 7/1/05; Amended 1/1/07) Rule 1.11 amended and renumbered effective July 1, 2007; adopted as section 'G' of Appendix to Chapters 4 and 5 effective July 1, 2005; previously amended effective January 1, 2007.*

**~~RULE 1.12 JUDGES' VACATION DAY~~** [Note: See proposed rule 1.6]

**Rule 1.12. [Reserved] Forms?**

**~~RULE 1.13 — UNIVERSAL FILING OF DOCUMENTS IN CIVIL, FAMILY LAW, AND PROBATE MATTERS~~** [Note: See proposed rule 1.9]

**Rule 1.13. Failure to comply with these rules**

Failure to comply with these rules is punishable by contempt or other sanctions including, but not limited to, any sanctions provided for in these rules.

*(Effective 5/19/98) Rule 1.13 amended and renumbered effective July 1, 2007; adopted as rule 1.9 effective May 19, 1998.*